

WARWICK ZONING BOARD OF REVIEW  
MINUTES OF THE JULY 22, 2014 MEETING

A regular hearing of the Warwick Zoning Board of Review was held on Tuesday, July 22, 2014 at 6:00 P.M. at Warwick City Hall, in the Warwick City Council Chambers, 3275 Post Road, Warwick, Rhode Island. Donald Morash, Chairman, called the meeting to order.

The Secretary called the roll and noted the following members present:

Donald Morash, Chairman  
Richard Corley, Vice Chairman  
Everett O'Donnell

Alternates: Paul Wyrostek  
Julie Finn

Absent: Attilio Iacobucci  
Beverly Sturdahl

Also present: Diana Pearson, Esq., Assistant City Solicitor  
Richard Crenca, Warwick Planning Department  
Carol Chevalier, Secretary  
Mary Ellen Hall, Stenographer

The Chairman entertained a motion to accept the minutes from the June 10, 2014 hearing. A motion was made by Richard Corley, seconded by Everett O'Donnell and passed unanimously by the Board.

The Chairman declared a quorum. The Chairman asked if there were any petitions to be withdrawn or continued.

Petition #10147

Ward 6

243 Promenade Avenue

The petition of Judith & David Clark, 243 Promenade Avenue, Warwick RI, for a request for a dimensional variance to construct a breezeway and garage addition and an addition to the

existing dwelling, garage and breezeway having less than required front/corner side yard setback (Cooper Avenue) and addition to dwelling having less than required front yard setback (Promenade Ave.), Warwick, RI, Assessor's Plat 373, Lots 184 & 185, zoned Residential A-15.

The Chairman stated that the petitioner requested that the petition be CONTINUED to the next hearing. A motion was made by Richard Corley, seconded by Everett O'Donnell and passed unanimously by the Board that the petition be CONTINUED to the next available hearing.

Petition #10146

Ward 7

11 Grandview Drive

The petition of James & Heather Pimentel, 351 Capron Farm Drive, Warwick, RI for a dimensional variance to legalize location of existing 8' x 8' shed, said shed having less than required rear yard setback, westerly side of Grandview Drive (11), Warwick, RI, Assessor's Plat 364, Lot 119, zoned Residential A-7.

Heather Pimentel, 351 Capron Farm Road, Warwick, petitioner, was present.

She stated that she purchased 11 Grand View Drive and the shed was already existing and too close to the rear property line. The property was empty for over one year before she purchased the property. The lot is small and there is a fence behind the shed.

Mr. Corley stated that the requested relief is minimal and the petitioner purchased the property in the condition it was in and the shed was in the current location. He stated that there were no objector's and the petitioner spoke to the neighbor's. With that statement he made a motion to approve the petition. The motion was seconded by Everett O'Donnell and passed unanimously by the Board that the petition be GRANTED.

Petition #10148

Ward 9

23 Belmont Road

The petition of Mark Mainelli, 23 Belmont Road, Warwick, RI, for a request for a dimensional variance to subdivide subject properties (Lots 2, 4 & 7) into two lots, leaving existing single family dwelling on one lot and construct a dwelling on the new lot, said lot having less than required frontage and width on side street (Bay View Avenue), Warwick, RI, Assessor's Plat 220, Lots 4, 6 & 7 zoned Residential A-10.

K. Joseph Shekarchi, Esq., petitioner, was present.

Richard Crenca, Warwick Planning Department, read recommendations into the record.

The attorney stated that the petitioner has no objections to the stipulations. He stated that the petitioner went before the Planning Board two months ago and asked to subdivide three lots into two lots. There is an existing dwelling that would remain on one lot and the petitioner proposes to construct a new dwelling on the second lot. The relief requested is due to the unique character of the property. The subject property is a corner lot, it fronts on two streets. He stated that the

petitioner still had to appear before the Planning Board for final approval. He requested that substantial compliance be a stipulation instead of strict compliance.

Neighbors present in opposition:

Darrell Lucente, 110 Bayview Avenue, Warwick, RI, was present in opposition.

He stated that the petitioner does not meet the standards for relief. He is trying to subdivide a lot to develop it. It will alter the character of the area. The property is contiguous to the existing dwelling. It can be used for a backyard or a garden. The petition should not be granted, there is no inconvenience there are other alternatives. The petitioner is all about creating the lot and selling it. There are many mature trees along the property line that shades his property and affords privacy. He questioned the septic system location. There have been issues with surface water. There is a lot of ledge in the area.

Mr. Shekarchi stated that if the petitioner cannot put the septic system there then his client cannot build the house. If the trees are on the abutting property his client cannot move them. If they are on his clients property he can move them. He stated that his client could have petitioned for three houses. His client thought one is in keeping with the character because the property fronts on two streets. His client offered to sell the property to the neighbor.

Mr. Lucente stated that he was told the lot was not buildable.

Mr. Corley stated that the lots were platted many years ago and with the zone changes they became non-conforming.

The Chairman stated that the lots were buildable when they were platted.

Mr. Shekarchi stated that a garden is not a beneficial use of the property, planting vegetation is not a beneficial use. The property is taxed as residential and not farmland.

Patricia McManus, 100 Spencer Avenue, Warwick, RI, was also present in objection.

She stated that there is a lot of ledge in the area. She lives across the street. She had to apply to DEM to change the location of her septic system when she replaced it. She was concerned about blasting. Her house was damaged by construction that had taken place in the area.

Mr. Shekarchi stated that they would have to post a bond with the building official and test for ledge.

Mr. Corley stated that the approvals would have to be obtained by the State for the septic system and they would have to comply with the State requirements.

Mr. Shekarchi stated that he understands the concerns. The petitioner received unanimous approval from the Planning Board.

Mr. Corley made a motion to approve the petition. He stated that the motion is to include the Planning Board stipulations except #8, substantial instead of strict, subject to the discretion of the Building Official. The objections by the neighbors concerning water and the septic will be addressed by an engineer. He stated that he wants to incorporate the Planning stipulations 1-7 they directly address the concerns of the neighbors. The petitioner offered for the neighbor to buy the property. The lot is a pre-existing lot. If there is a problem with the ledge the neighbors will be notified. The petitioner is taking three lots and creating two lots. They could have three lots and decided that two would be better for the neighborhood. The motion was seconded by Julie Finn and passed unanimously by the Board that this petition be GRANTED with stipulations.

Petition #10149

Ward 4

Brightside Avenue

The petition of David Holm, 15 Wentworth Avenue, Warwick, RI, for a request for a dimensional variance to construct a 26' x 44' single-family dwelling with a 10' x 12' deck on subject property, subject property being an undersized non-conforming lot, proposed dwelling having less than required front/ corner side yard setback (Coolage Avenue), Warwick, RI, Assessor's Plat 331, Lots 29 & 30, zoned Residential A-7.

John Shekarchi, Esq., representing the petitioner, was present.

Edward Pimentel, was accepted as an expert witness in Planning and Land Use. (Motion was made by Richard Corley, seconded by Everett O'Donnell and passed unanimously by the Board)

Richard Crenca, Warwick Planning Department, read recommendations into the record.

The attorney amended the request to add dimensional relief from the wetland feature. He stated that they may need relief for a foot or two.

Mr. Pimentel presented a report to the Board (Petitioner's Exhibit #1).

He described the report and his findings to the Board.

Scott Rabideau, was accepted as an expert in wetland biology (Motion was made by Everett O'Donnell, seconded by Julie Finn and passed unanimously by the Board)

He described his findings to the Board. He defined the assessment of the soils to determine the wetland. He described to the Board how he determined the feature location.

Mr. Crenca stated that the petitioner would have to do to the Department of Environmental Management regardless because of the 200 foot requirement.

Paul Earnshaw, 118 Brightside Avenue, was present in objection.

He read a letter into the record. The letter was marked as Objector's Exhibit #1. He described to the Board his environmental concerns for the area.

The Chairman stated that D.E.M. will make the determination. The Board needs to focus on the construction of the house and the lot size.

Lori Earnshaw, 118 Brightside Avenue, Warwick, RI, was also present in objection.

She presented two letters from her daughters. (Objector's Exhibit #2 & #3) She read a letter into the record and presented it as Objector's Exhibit #4 and photographs as Objector's Exhibit #5)

Jennifer Davis, 100 Brightside Avenue, was present in objection.

She read a letter into the record. She stated her concerns were to the aesthetics of the area and the lot size.

Kristen Oliviera, 127 Brightside Avenue, Warwick, was also present in objection.

She stated that she has lived there for two years and the brook overflows. She is concerned the new dwelling will cause a water problem in her basement. She presented her letter as Objector's Exhibit #6.

The Board and the Planning Department representative discussed paving, driveways and walkways.

Mr. Shekarchi stated that they would agree to any stipulations regarding the driveway.

Mr. Corley stated that he would add an additional stipulation #10, any driveway or walkway be of a pervious material.

Paul Wrostek questioned if the house could be moved forward.

Mr. Corley made a motion to grant the petition with the added stipulation #10. The driveway and walkway be of a pervious material and rain gardens be installed to collect runoff. Mr. O'Donnell seconded the motion. He stated that the wetland setback relief is fine with the conditions as provided. The Planning Department addresses the concerns to water issues and the experts addressed the impact on the area. To deny would deprive the petitioner the legal right to build. The motion was passed unanimously by the Board that the petition be GRANTED with stipulations.

Petition #10139

Ward 2

72 Norwood Avenue

The petition of Jennifer Ahearn, 1 Joyce Glen Street, Warwick, RI, for a request for a dimensional variance to demolish existing dwelling and construct a new 26' x 32' dwelling with an attached 8' x 12' deck, subject property being an undersized non-conforming lot, easterly side of Norwood Avenue (72), Warwick, RI, Assessor's Plat 286, Lot 67, zoned Residential A-7.

John Shekarchi, Esq., representing the petitioner was present.  
Jennifer Ahearn Townsend, petitioner, was also present.

Richard Crenca, Warwick Planning Department, read recommendations into the record.

He stated that the application was incorrectly before the Board and the lots are merged.

Jennifer Ahearn Townsend stated that she purchased the property at a tax sale in 2009 and her attorney told her that it was a separate independent lot. Ken Mallette the Tax Assessor also made the same statement at the time she purchased it. She went through the entire process, the right of redemption and the lots are not merged.

There was discussion between the petitioner, City Solicitor Diana Pearson and the attorney for the petitioner regarding the merger issue.

Edward Pimental testified to the Board.

A motion was made by Everett O'Donnell, seconded by Julie Finn and passed by a four (4) to one (1) vote (Richard Corley voted to deny) that the petition be GRANTED.

Petition #10152

Ward 1

21 Quinton Street

The petition of Hemlock Marketing, Inc., 21 Quinton Street, Warwick & SES America, Inc., 410 Harris Road, Smithfield, RI, for a request for a use variance and dimensional variance to occupy portion of existing building for sign manufacturer, subject property having less than required off street parking, less than required landscaping, less than required setbacks for parking, existing building legal non-conforming, also to have an LED sign on subject property, northwesterly corner of Quinton Street (21) and River Street, Warwick, RI, Assessor's Plat 290, Lot 317, zoned General Business.

K. Joseph Shekarchi, Esq., representing the petitioner, was present.

Richard Crenca, Warwick Planning Department, read recommendations into the record.

Mr. Shekarchi stated that he met with the Planning Department and they have no objection to the stipulations.

Phillip Perret, CEO SES America, was present.

He stated that operation of his business and also stated that the sign would be used as a display for customers.

Mr. Corley stated that the proposed sign is for demonstration and promotes the petitioner's business. He made a motion to approve the petition with the planning stipulations. The motion was seconded by Everett O'Donnell and passed unanimously by the Board that the petition be GRANTED with stipulations.

Petition #10150

Ward 8

501 Centerville Road

The petition of Industrial Ventures LLC, 1 James P. Murphy Highway, West Warwick, RI, for a request for a dimensional variance to expand parking area with less than required landscape buffer and less than required setbacks for parking spaces, northeasterly corner of Centerville Road (501) and Commonwealth Avenue, Warwick, RI, Assessor's Plat 247, Lots 11 & 138, zoned Office.

K. Joseph Shekarchi, Esq., representing the petitioner, was present.  
Stephen Soscia, petitioner, was present.

Richard Crenca, Warwick Planning Department, read recommendations into the record.

The attorney stated that they agree with all of the stipulations with the exception of #2. It is due to snow plowing in the winter. They stated they met with the neighbors and agreed to amend the plan abutting Plat 247 Lot 88 regarding the stockade fencing. They described the plan to the Board and the need for the additional off street parking.

There were neighbors present in opposition.

Donald Oliva, 92 Cindy Lane  
Kimberly Oliva, 92 Cindy Lane  
Robert Sweet, 75 Cindy Lane  
Carol Mastruobono, 84 Cindy Lane  
Alice Butera, 66 Cindy Lane,  
Gertrude Breault, 44 Cindy Lane  
Alfred Mastruobono, 84 Cindy Lane  
Paul Main, 74 Cindy Lane

The petitioner and his attorney addressed he of the concerns of the objector's and answered numerous questions and concerns presented.

Mr. Corley stated that there is clearly a need to give the petitioner the ability to expand to market the office space. He presently can only negotiate certain businesses. This would afford the flexibility for different kinds of businesses. The planning department reviewed the plan and the petitioner answered all of the questions of the neighbors and incorporated the concerns in the stipulations. The issues regarding the retaining wall were answered by the engineer. With that statement he made a motion to approve the petition. The motion was seconded by Everett O'Donnell and passed unanimously by the Board that the petition be GRANTED with stipulations.

Petition #10153

Ward 4

2028 Warwick Avenue

The petition of Sheng Chen, 5 Larson Drive, Warwick, RI, for a request for a dimensional variance and a use variance to occupy existing building as a restaurant, subject property having less than required off street parking, setbacks for parking spaces, less than required setbacks for parking from the building, less than required landscaping and screening, existing building having less than required setbacks from front street, side street and residential property (rear property line), proposed walk in freezer and dumpster having less than required side yard setback and setback from residential zone, southeasterly corner of Warwick Avenue (2028) and Vernon Street, Warwick, RI, Assessor's Plat 329, Lot 10, zoned Office.

K. Joseph Shekarchi, Esq., representing the petitioner was present.

Sheng Chen, petitioner, was also present.

Richard Crenca, Warwick Planning Department, read recommendations into the record.

The attorney stated that the petitioner is trying to reuse the building and convert a former insurance office building into a Chinese restaurant. The petitioner purchased the property last year and 50% of the business is take out and they do not have a liquor license.

There were two neighbors present in opposition.

Debra Carr, 183 Vernon Street  
Doris Hurst, 102 Vernon Street

They were concerned with traffic, parking, noise, visibility on the corner, dumpster location and debris.

The petitioner and the petitioner's attorney discussed the operation of the business with the objector's.

Mr. Corley made a motion to grant the petition with the stipulations of the Planning Department. He stated that there are a lot of empty buildings in the City. With the business climate the way it is in the City he does not see how they cannot allow it. It may not be the preference of the



neighbors but the majority of the business is take out. The motion was seconded by Everett O'Donnell and passed unanimously by the Board that the petition be GRANTED with stipulations.

Petition #10151

Ward 2

1338 Post Road

The petition of Balise Auto Sales, Inc., 1400 Post Road, Warwick, & BAR RI, LLC, 1338 Post Road, Warwick, for a request for a dimensional variance to construct two freestanding ground sign on the subject property higher and larger than allowed by ordinance, easterly side of Post Road (1338), Warwick, RI, Assessor's Plat 309, Lots 41 & 50, zoned General Business.

K. Joseph Shekarchi, Esq., representing the petitioner was present.

He stated that the signs were approved by the Warwick City Council and the relief requested is to change the location of the signs approved by the Council. The sign would not be LED.

A motion was made by Everett O'Donnell, seconded by Julie Finn and passed unanimously by the Board that the petition be GRANTED.

The Chairman adjourned the hearing at 10:40 P.M.

BY ORDER OF THE ZONING BOARD OF REVIEW, WARWICK, RHODE ISLAND

Donald G. Morash, Jr., Chairman

\*Please be advised that the Zoning Board of Review has adopted Rules and Regulations governing the application process, submission of material, conduct of the public hearing on the application and responsibilities of an action to appeal a decision. These Rules and regulations are posted on the City's web site and are available for review in the Board's office during regular hours. All applicants and objectors are obliged to review these Rules and shall be held responsible for compliance therewith. If there are any questions on the above petitions, please contact the Zoning Office at 738-2000, extension 6294. All inquiries must be made 24 hours in advance of said hearing. Facilities are accessible for people with disabilities. If you are in need of interpreter services for the hearing impaired, please contact the Human Services Department at 739-9150.